

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL DAVID ARMSTEAD,

Petitioner,

CIVIL CASE NO. 06-10627  
CRIMINAL CASE NO. 04-50027

v.

UNITED STATES OF AMERICA,

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT COURT

Respondent.

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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

Before the Court is Petitioner's motion under 28 U.S.C. § 2255 and the Report and Recommendation of the Honorable Wallace Capel, Jr., United States Magistrate Judge. The Magistrate Judge recommends that this Court transfer Petitioner's motion to the district court having jurisdiction over the warden at FCI Morgantown, West Virginia. The Magistrate Judge served the Report and Recommendation on all parties on April 14, 2006. Accordingly, any objections should have been filed within ten days of service, by May 1, 2006. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). *See also* Fed. R. Civ. P. 6(e). Neither party filed objections to the Report and Recommendation.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual

or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

Accordingly, **IT IS HEREBY ORDERED** that the Report and Recommendation [docket entry 28] is **ACCEPTED** and **ADOPTED** as the opinion of this Court and Petitioner’s motion [docket entry 23, Civil Action No. 06-10627] is **TRANSFERRED** to the Northern District of West Virginia.

**SO ORDERED.**

Dated: May 3, 2006

s/Paul V. Gadola  
HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on May 4, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Mark C. Jones, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Michael Armstead.

s/Ruth A. Brissaud  
Ruth A. Brissaud, Case Manager  
(810) 341-7845